

REMARKS/ARGUMENTS

Claims 1 and 3-8 remain in this application. Claim 9 has been added.

Claim rejections – 35 USC 112

Claims 3 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim rejections – 35 USC 102/103 based on McKinney

Claims 1 and 3-7 are rejected under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over McKinney, US Patent 4,430,289. Claim 8 is rejected under 35 USC 103(a) as being unpatentable over McKinney, US Patent 4,430,289 in view of Ealer, US Patent 4,594,213. Claim 5 was rejected under 35 USC 102(b), or in the alternative, under 103(a) as obvious over McKinney above. The Applicants traverse these rejections on the grounds that McKinney does not inherently disclose the method of the current claims but, rather, teaches away from the current invention.

With respect to inherency, the Examiner has failed to show that the undisclosed element must be present in McKinney.

‘The law requires that inherency may not be established by possibilities or probabilities. The evidence must show that the inherency is necessary and inevitable.’ *Interchemical Corp. v. Watson*, 111 USPQ 78, 79(d) (D.C. 1956), aff’d, 116 USPQ 119 (D.C. Cir. 1958); MPEP §2112.

The current claims are to a method for improving the cling force of a stretch wrap film. The improvement, i.e., increase, in cling force is stated more expressly in new claim 9. In contrast to the Examiner’s position, McKinney does not disclose, even inherently, a method to improve the cling force of a stretch film. Instead, McKinney teaches a method to decrease the cling force of a film. Notably, the tables in Examples 2 and 3 of McKinney show that the addition of the additives decreases the cling force of the films, as measured by

film-to-film slip angle. Accordingly, McKinney explicitly shows that their method does not “necessarily and inevitably” improve the cling angle. As such, McKinney does not anticipate or render obvious the subject matter of the current claims.

Even more, McKinney actually teaches away from the current invention. Specifically, a reference that teaches a method to decrease cling force clearly teaches away from a method to improve cling force. Therefore, the anticipation and obviousness rejections based on McKinney should be withdrawn.

Claim rejections – 35 USC 103(a) based on Matteodo

Claims 1 and 3-7 are rejected under 35 USC 103(a) as obvious over Matteodo, US Patent 5,132,344.

With regards to Matteodo (US Pat. No. 5,132,344), it teaches many types of polyethylene (see col. 2, lines 63-64) including linear low density polyethylene. It requires zinc oxide, but says it should be present in an amount in a range of from 100 to less than 2,000 ppm (see col. 2, line 35), and should have a particle size of from 0.05 to 2.0 μm , preferably from 0.1 to 2.0 μm (see col. 3, line 33). Matteodo also teaches that its compositions can be thermoformed, which includes film forming processes (see column 5, lines 23-29), although stretch wrap film is not specifically mentioned.

Matteodo fails to provide any teaching relevant to a method for improving the cling force of a stretch wrap film, much less the method as currently claimed. While some of the ranges of particular elements in Matteodo may overlap with ranges claimed in the present invention there is no teaching of the specific combination of elements claimed. In particular, there is no teaching of the combination of a small amount of zinc oxide having a small average diameter particle size. In order to arrive at an example meeting the claims of the present invention from Matteodo, it would be necessary to pick specific materials and end use

applications from Matteodo's broad teachings and choose ranges of particle size and amounts which are at the extreme of the ranges taught by Matteodo, and at least for the case of particle size, outside the preferred range. It is important to note that none of the Examples of Matteodo fall within the scope of the present invention, due to using a zinc oxide with a mean diameter size of 0.5 μm (see col. 6, line 9), and in amounts greater than 100 ppm. Thus there is no novelty destroying point contained in the Examples. As there is no novelty destroying point in the Examples, and no teaching of the specific combination of elements claimed in the present invention, Matteodo is relevant only for a discussion of obviousness.

In terms of obviousness, there is no indication why a person of ordinary skill in the art, considering Matteodo, would choose to select the particular combination of elements claimed in the present invention. First as to particle size, at column 3, line 33, Matteodo teaches away from using the smaller materials included in its broadest range (0.5 μm to 2 μm), indicating that the larger particles (0.1 μm to 2 μm) are more preferred. Secondly, as to the amount, it is notable that at column 8, line 67, Matteodo states that using less than 100 ppm is actually worse than using none at all. Clearly this teaches away from the lower amounts now claimed by the Applicants.

The results presented in the present application demonstrate surprising results achieved when using the amounts and size of the zinc oxide particles with LLDPE. In particular Table 4, (including both 4.1 and 4.2) demonstrates that using ultra fine zinc oxide at low levels increases the cling force of stretch wrap films while maintaining other properties, including successful neutralization of acid in the resin (see Table 1). These results are unexpected, and are in no way suggested by Matteodo.

The Applicants believe that the amendment and cancellation of claims, and the above comments, puts the application in condition for allowance.

No fee is believed to be due for the filing of this Amendment and Response. If any fee is due, such fee should be charged to Deposit Account 23-2053. Any required petition should be considered provisionally made.

Respectfully submitted,



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